

before her, she does not have direct judicial experience, although like many of them, she clerked for a Supreme Court Justice.

Some of my colleagues have belittled General Kagan's experience as better suited to the backwaters of academia than a seat on the highest Court. I think this is wishful thinking on their part, perhaps because they know her real world experience will bring the Court back to the center.

And, in fact, it is clear that her experience at Harvard Law School demonstrates, rather than undermines, her qualifications.

Unlike every other current Justice on the Supreme Court, General Kagan ran a business. She understands much about how the real world functions that many of our current Justices simply do not.

She managed 500 employees and a budget of \$160 million annually. Plus, this real world management experience was forged in an environment that was ideologically charged when she arrived.

But it was much less so when she left. Jack Goldsmith, whom Elena Kagan hired and who had been head of President Bush's Office of Legal Counsel, wrote of her:

It might seem over the top to say that Kagan combines principle, pragmatism, and good judgment better than anyone I have ever met. But it is true.

General Kagan's skills as a consensus builder are sorely needed on a fractious Court that often struggles to find the moderate ground between its two wings. A recent study showed that last term, the Court issued "conservative" opinions 65 percent of the time—more than any term in living memory.

The fact that the pull to the right is so demonstrable suggests also that these decisions are often quite broad—as in the Citizens United case, where the issues that were decided had not initially been briefed. Someone as persuasive and perceptive as General Kagan could help to narrow these decisions, to put together 5 to 4 majorities that issue mainstream, modest opinions.

An important component of General Kagan's pragmatic experience is her gender. As difficult as managing an ideologically diverse law school faculty is for anyone, General Kagan did it as the first woman. I have heard it said that Ginger Rogers did everything Fred Astaire did, but backwards and in high heels.

The exact details obviously don't apply to General Kagan, but the sentiment does.

Serving as the first female dean of Harvard, and the first female Solicitor General, has surely broadened her views and deepened her understanding of how Americans work and relate to one another. Her role as a woman in each of these institutions enriches the practical experience that she will bring to the Court.

This is the candidate whom many of my colleagues have branded as an out-of-the-mainstream liberal activist.

At the end of the day, it is fine to disagree with General Kagan's views and ideology. But labeling such a mainstream candidate as a liberal ideologue sets a troubling precedent. It moves the center further and further to the right.

I am confident that General Kagan is the right candidate for the Supreme Court at the right time. I will proudly cast my vote for her.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

FAA AIR TRANSPORTATION MODERNIZATION AND SAFETY IMPROVEMENT ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of the House message to accompany H.R. 1586, which the clerk will report.

The legislative clerk read as follows:

House message on H.R. 1586, motion to concur in the House amendment to the Senate amendment to H.R. 1586, an act to modernize the air traffic control system, improve the safety, reliability, and availability of transportation by air in the United States, provide for modernization of the air traffic control system, reauthorize the Federal Aviation Administration, and for other purposes, with an amendment.

Pending:

Reid motion to concur in the amendment of the House to the amendment of the Senate to the bill, with Reid amendment No. 4575 (to the House amendment to the Senate amendment to the bill), in the nature of a substitute.

Reid amendment No. 4576 (to amendment No. 4575), to change the enactment date.

The ACTING PRESIDENT pro tempore. Under the previous order, all postcloture time is considered expired, except there will be 20 minutes of debate equally divided and controlled between the Senator from Montana, Mr. BAUCUS, and the Senator from South Carolina, Mr. DEMINT, or their designees.

The Senator from South Carolina.

Mr. DEMINT. Madam President, how long do I have to speak?

The ACTING PRESIDENT pro tempore. Five minutes.

Mr. DEMINT. Thank you, Madam President. I think I can do it in that time.

It seems we have time to do almost anything, but what we need to do is address the economy and jobs in this country. Just about every economist, from all across the political spectrum, says one of the most important things we can do right now is not to raise taxes. Yet taxes are scheduled to go up in 5 months on almost every American, including the businesses that create the jobs.

Of the two amendments I will offer here today, one amendment will stop

the increase in income tax rates, and the second will stop the tax increases on small businesses that file as individuals.

Clearly, it makes no sense in the middle of a recession to raise taxes on individuals. An individual in South Carolina making \$40,000 a year will pay \$400 more next year in taxes if we do not act. A married couple with a combined income of \$80,000 will see their taxes go up nearly \$2,200. A married couple earning \$160,000 combined could pay \$5,500 in additional taxes.

The same thing will happen to small businesses that create the jobs. We will be taking money out of their accounts and putting it in our accounts. At a time when they need to keep the money to grow our economy and to hire workers, we do not need the money to continue to waste it on what we have been doing.

Consider the stimulus bill. A couple of my colleagues this week came out with a report showing where a lot of this stimulus money went: \$62 million for a Pennsylvania tunnel that Governor Rendell said was a tragic mistake; \$193,000 for voter perception of the stimulus bill. I could go on and on. This is not money we need to spend right now.

What we need to do is assure businesses and individuals that the tax rate this year will be the same next year so they can make good decisions that will move our economy forward.

MOTIONS TO SUSPEND

Madam President, in accordance with rule V of the Standing Rules of the Senate, I move to suspend rule XXII for the purpose of proposing and considering the following motion to commit, with instructions, H.R. 1586: I move to commit H.R. 1586 to the Committee on Finance with instructions to report the same back to the Senate with changes to include a permanent extension of the 2010 individual income tax rates, and to include provisions which decrease spending as appropriate to offset such permanent extension.

And, Madam President, in accordance with rule V of the Standing Rules of the Senate, I move to suspend rule XXII for the purpose of proposing and considering the following motion to commit, with instructions, H.R. 1586: I move to commit H.R. 1586 to the Committee on Finance with instructions to report the same back to the Senate with changes to include a permanent extension of current individual income tax rates on small businesses and provisions which decrease spending as appropriate to offset such permanent extension.

With that, Madam President, I reserve the remainder of my time and yield the floor.

The ACTING PRESIDENT pro tempore. The motions are pending.

The Senator from Montana.

Mr. BAUCUS. Madam President, this is a stunt. It is a gimmick. It is not serious, and it is very sad. We are in very difficult times. The economy is in recession, going out of recession. We are